

<p><b>DRAFT DATE</b>  <u>10/23/2012</u>  Please use <b>TRACK</b>  Changes in this  document</p>	<p><b>Florida Gulf Coast University</b>  Policy Manual</p>	<p>Policy: <b>Number to be assigned in the General Counsel's Office</b></p>
	<p><b>Title: Policy on Criminal History Background Checks</b></p>	<p><b>Responsible Executive:</b>  Vice President for Administrative Services and Finance  <b>Responsible Office:</b>  Human Resources</p>

**POLICY STATEMENT**

The University is committed to the safety, security and health of its students, employees and others, as well as safeguarding the interests of the institution. To that end, the University requires a criminal history background check be conducted on all current employees and prospective employees. Criminal history background checks will be conducted on students and volunteers when required by law or if involving a position of special trust, responsibility or location of the position.

**REASON FOR POLICY**

This policy is created to outline the protocols to be utilized, as well as the responsibilities involved in conducting criminal history background checks. Criminal history background checks will be used only for the purpose of verification of the current employee's or prospective employee's criminal history.

**DEFINITION OF TERMS (For purposes of this Policy only)**

**Employee** – A person employed by Florida Gulf Coast University in the classification of 1) Faculty, 2) Executive Service, 3) Administrative and

Professional (A&P), 4) Support Personnel (SP), and 5) Other Personal Services (OPS).

**Volunteer** – A person who, of his or her own free will, provides services to the University without monetary or material compensation for his or her efforts.

**Student** – A person whose primary purpose is to pursue an education. Graduate Assistants, Teaching Assistants, and Resident Assistants would be considered students. A student applying for a position that is open to non-students or is considered a position of special trust, responsibility, or working with minors would be required to complete a criminal history background check.

**Criminal Background History Record** – Excludes an individual's arrest record and conviction records that have been sealed by court order.

## **PROCEDURES**

The University shall submit a complete set of fingerprints to the Florida Department of Law Enforcement for the employee, candidate selected to fill the position, or volunteer, as applicable. The cost of fingerprinting will be centrally funded.

### **A. Information Collection, Evaluation and Retention**

1. Human Resources shall be responsible for processing criminal history background checks.

2. A criminal history background check shall apply to OPS employees and volunteers in designated positions of special trust and responsibilities whose duties may include one or more of the following:
  - a. Working with minors or children as defined in the National Protection Act of 1993 as amended, or minors and children defined as any person under age of 18, as mandated under Florida Statute Section 827.01;
  - b. Access to cash, credit card numbers and/or demand deposits;
  - c. Access to campus buildings as a result of being assigned building master keys;
  - d. Ability to complete final processing of payroll, investments or purchase orders.
3.
  - a. If a prospective employee or volunteer refuses to undergo all or a portion of the criminal history background check process, that person will be ineligible for consideration for the position in which they are interested.
  - b. If a criminal history background check of a prospective employee reveals any conviction of a felony or misdemeanor which a current employee failed to disclose on the University application, or to Human Resources, the hiring authority, in conjunction with the appropriate Division Vice President or President, as applicable, will consider the following factors before making any employment decision:

- i. The nature and gravity of the offense(s) and the circumstances surrounding the offense(s);
  - ii. The time that has passed since the conviction and/or the completion of the sentence;
  - iii. The rehabilitation record and actions and activities of the individual since the conviction including subsequent work history; and
  - iv. The nature of the job sought.
- c. The existence of a conviction does not automatically disqualify an individual from employment. Adverse information triggers a process not a result. Each case will be judged on its own merit with respect to the above factors; however, the individual must have made a truthful and comprehensive disclosure of the conviction for employment consideration. Guilty verdicts, guilty pleas and pleas of nolo contendere (no contest) must be included in the disclosure. Individuals will have an opportunity to present relevant information after the University's receipt of the criminal history background check information for consideration in making any employment decision.
4. a. Cooperation by current employees in compliance with this policy is expected. Consequently, an employee's refusal to comply with all or a portion of the criminal history background check process will result in termination of employment.

- b. If a criminal history background check reveals any convictions of a felony or a misdemeanor which a current employee failed to disclose on the University application, the appropriate Division Vice President, or President, as applicable, will review the matter on a case-by-case basis. Information regarding the review will be shared only with those persons responsible for, or reasonably involved in, the decision related to the employee's continued employment with the University. Employees will have an opportunity to present relevant information regarding their failure to disclose, for consideration in making employment decisions.
5. All completed criminal history background checks shall be maintained in Human Resources and shall be kept separately from employee personnel files. Criminal history background checks are subject to the Florida Public Records laws.
6. The University will ensure that all criminal history background checks are held in compliance with federal and state statutes, such as the Fair Credit Reporting Act, when applicable.
7. Criminal history background checks will not be used to discriminate on the basis of race, color, marital status, sex, religion, national origin, disability, age, genetic information, sexual orientation, gender identity or expression, or military status.

#### B. Exemptions

This policy provides exemptions from criminal history background checks for individuals who meet the following conditions, unless their job duties require

them, by law or internal procedure, to undergo a criminal history background check:

- a. Students and volunteers, generally, will not be subject to criminal history background checks. A department may designate limited positions as subject to criminal history background check. Applicants will be notified of the requirement at the time the position is posted.
- b. Short term volunteers who are only on campus for a special event.
- c. Volunteers who were previously checked within the last six (6) months by the University.

**APPLICABILITY AND/OR ACCOUNTABILITY**

**RELATED INFORMATION**

**HISTORY**    New

**APPENDICES**

**APPROVED**

\_\_\_\_\_  
President

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Date